



## THOUGHTS FROM OUR CHAIRMAN

Mother always said “charity begins at home”. Most of us are focused on the needs and opportunities of family but it is wise to proceed with a long range gift plan that meets your personal needs and goals. After the family it may be important to you to support a charitable organization, such as a church and/or an educational institution, with a substantial gift. The Federal and state tax codes provide guidance on ways to make smart substantial charitable gifts. In this Fall issue of As We See It, Ted Staples reviews the gifting choices.

*Alfred B. Van Liew*

## When it Comes to Gifts

*Edward K. Staples*

Gifts are generally defined as a property transfer to another individual or entity without receiving full market value in return. Gifts come in many types and sizes which may be completed all at once or extend over a longer period of time. With that in mind, the source, complexity and donor intent of a gift warrant advance consideration of a number of important factors. These include, but are not limited to, understanding the overall impact of relinquishing control and use of the intended gift property, a recipient’s ability to safeguard and maintain such property (i.e., liquidity, a child’s maturity), and the design of a suitable, efficient legal structure.

### Goals

What motivates making a gift? We often find personal satisfaction in the support of someone else or a charity. Other times, a gift provides more practical effects such as the reduction of income tax. Gifts instituted through an IRA as a Qualified Charitable Distribution (QCD) are one example. In a QCD, up to \$105,000 per year of ordinary income may be donated directly to an exempt organization without the donor being

taxed (subject to certain age and income level rules). Various types of charitable remainder trusts (CRTs) are also quite flexible planning vehicles. The individual establishing and funding a CRT, may obtain current and carry forward tax deductions. In return for their capital-funding donation, they may also receive a stable form of annuitized income stream. These and other types of financial planning elements can reduce future estate tax liability, and help manage the ownership succession of assets deemed valuable for business and posterity.

### Asset Selection

Many of us gift cash, typically for smaller contributions, making use of the Annual Gift Tax Exclusion. With the simple writing of a check, up to \$18,000 may be given to any individual during a calendar year, without the requirement of filing a gift tax return. Many married couples opt to maximize annual exclusion gifts by making joint gifts – increasing the amount of the gift to \$36,000. Over a few years to a number of individuals, those tax-free gifts can really add up! US tax rules also detail the

allowance of direct payment of medical and education expense for others with no gift tax issues.

When considering gifts, be certain to leave yourself comfortably supported for important ongoing expenses such as medical insurance, maintenance of your residence, or a future disability. Do not forget to plan for carried debt and cost of living increases.

For non-cash gifts of more significant size, assess downside risk when selecting what is to be given, and maximize the beneficial effect over time with assets offering rapid appreciation potential. Also, weigh the importance of tax basis. Lifetime gifts carry out original basis to the recipient - and unrealized capital gain. Exempt organizations are not subject to those capital gains constraints, whereas, it can be an important consideration for individual gift recipients. A donor's life expectancy, therefore, may temper the decision of whether or not to select certain assets to gift. If not given away during one's lifetime, the property passing through a decedent estate will receive a "step up" in tax basis, effectively eliminating the embedded gains tax liability.

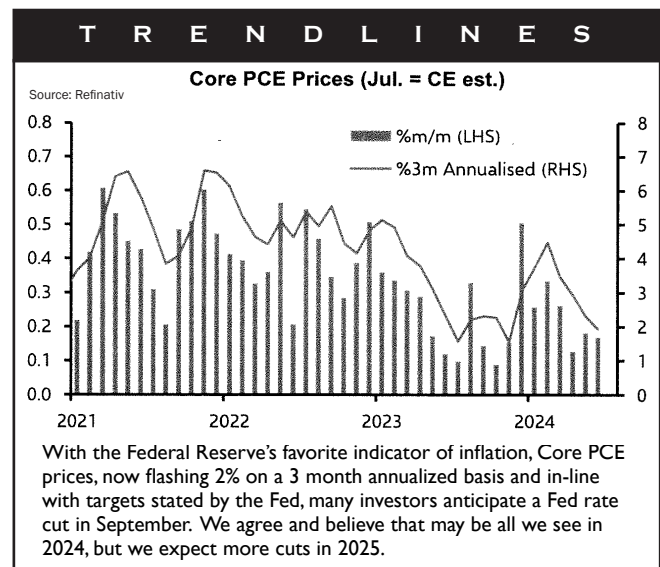
The gifting of appreciated securities allows the donor to reduce their overall investment market exposure, while trimming existing concentrations of a particular asset class and individual securities. Another valuable planning tool to help identify gift assets is the Unlimited Marital Deduction. The tax law for marital gifts allows an unlimited tax-free exchange of property between US citizen spouses during their lifetimes. Also worth remembering, for high net worth planning, is the Federal Estate and Gift Tax Exemption is currently \$13.61 million per individual; a combined \$27.22 million for a married couple. Credit not allocated in the settlement of a spouse's decedent estate is portable to the survivor for their future planning. The current law, however, carries a Congressional "Sunset Provision" at the end of 2025. How much

reversion will occur to lower Gift Tax Exemption credit levels under the Internal Revenue Code (IRC) is as of yet unknown – so, plan early!

### Time

Time is a secret ingredient of gift plans, allowing for the successful coordination of pertinent details. There is the overriding factor of life expectancy, and the consideration of the time it takes to draft an effective legal plan, arrange gift property valuations and retitle assets. Whether it is the recording of fractional ownership rights, the establishment of a LLC (Limited Liability Company), or a designated gift constructed for your alma mater, it will require time and effort to maximize inherent benefits and get it right.

If you are starting a gift initiative – whatever type and to what extent - think about your motivation and how to most effectively achieve your desired goals. At the same time, reserve enough flexibility with ownership of different types of property to support yourself comfortably for a full and rewarding life. Your individual heirs and favorite exempt organizations will appreciate your prudent diligence.



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